

****NOT FOR PRINTED PUBLICATION****

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

MARCELLA COOK	§	
fka Jane SFA-CM Doe	§	
	§	CASE NO. 9:19-CV-201-RC-ZJH
v.	§	
	§	CAB
STEPHEN F. AUSTIN UNIVERSITY	§	

**ORDER ACCEPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION**

The court referred this case to the Honorable Zack Hawthorn, United States Magistrate Judge, for all pretrial matters. On October 21, 2020, Judge Hawthorn issued a Report and Recommendation granting Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint (Doc. #18) but allowing Plaintiff an opportunity to amend her Rehabilitation Act claim. (Doc. #29). To date, the parties have not filed objections to the report and recommendation and the time for doing so has passed.

After review, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the court agrees with Judge Hawthorn's recommended disposition and **ACCEPTS** the Report and Recommendation (Doc. #29). Defendants' Motion to Dismiss (Doc. #18) is **GRANTED, in part**, as to Plaintiff's claims for relief under the Americans with Disabilities Act and 42 U.S.C. § 1983. Those claims are therefore **DISMISSED** with prejudice.

Defendants' Motion to Dismiss (Doc. #18) is **DENIED, in part**, at this time, as to the Rehabilitation Act claim, subject to Plaintiff amending the Rehabilitation Act claim to cure its deficiencies as recommended by Judge Hawthorn. Plaintiff is afforded leave to file an amended complaint within ten (10) days of this order to correct the deficiencies in the Rehabilitation Act

claim as pled. Pursuant to the magistrate judge's recommendation, the court will dismiss the Rehabilitation Act claim if Plaintiff fails to correct those deficiencies.

So Ordered and Signed

Nov 6, 2020

A handwritten signature in black ink, appearing to read "Ron Clark", written over a horizontal line.

Ron Clark
Senior Judge